

ENTERED

April 19, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISIONKATRINA CANNON and MELISSA
CANNON,

Plaintiffs,

v.

SHELLY MERRITT et al.,

Defendants.

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Misc. Action No. 6:21-MC-00005

ORDER ACCEPTING MEMORANDUM AND RECOMMENDATION

Pending before the Court is the May 12, 2021 Memorandum and Recommendation (“M&R”) signed by Magistrate Judge Jason B. Libby. (Dkt. No. 4). In the M&R, Magistrate Judge Libby *sua sponte* recommends dismissal of *pro se* Plaintiffs Katrina Cannon and Melissa Cannon’s case under Federal Rule of Civil Procedure 41(b).¹

The Plaintiffs filed their Complaint on March 31, 2021. (Dkt. No. 1). About a week later, the Deputy Clerk informed the Plaintiffs that they must pay the filing fee or apply to proceed *in forma pauperis* within twenty days. (Dkt. No. 2). The Plaintiffs did not. On April 29, 2021, Magistrate Judge Libby ordered the Plaintiffs to either pay the filing fee or apply to proceed *in forma pauperis* no later than May 10, 2021. (Dkt. No. 3). Magistrate Judge Libby warned that failure to comply may result in dismissal. (*Id.*). Again, the Plaintiffs did not comply. The M&R followed.

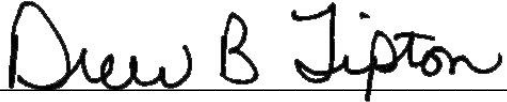
¹ Federal Rule of Civil Procedure 41(b) provides in relevant part: “If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.” A district court may *sua sponte* dismiss a case under Rule 41(b). *Nottingham v. Warden, Bill Clements Unit*, 837 F.3d 438, 440 (5th Cir. 2016).

Plaintiffs Katrina Cannon and Melissa Cannon were provided proper notice and the opportunity to object to the M&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). No party filed an objection. As a result, review is straightforward: plain error. *Guillory v. PPG Indus., Inc.*, 434 F.3d 303, 308 (5th Cir. 2005).

No plain error appears. Accordingly, the Court **ACCEPTS** the M&R as the Court's Memorandum Opinion and Order. The Court **DISMISSES WITHOUT PREJUDICE** this case under Federal Rule of Civil Procedure 41(b).

It is SO ORDERED.

Signed on April 18, 2022.



DREW B. TIPTON
UNITED STATES DISTRICT JUDGE